

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/432,351	11/02/99	SCHRAGA	S 1,825,99

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EXAMINER

TRINH, H

ART UNIT	PAPER NUMBER
3731	2

DATE MAILED:

04/26/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/432,351	Applicant(s) Schraga
	Examiner VIKKI TRINH	Group Art Unit 3731

Responsive to communication(s) filed on _____.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-25 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-4 and 6-25 is/are rejected.

Claim(s) 5 is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

An anticipation under 35 U.S.C. 102(b) or 102(e) is established when a single prior art reference discloses, either expressly or under principles of inherency, each and every element of a claimed invention. See RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 221 USPQ 385 (Fed. Cir. 1984).

It is well settled that the law of anticipation does not require that the reference teach what appellant is teaching or has disclosed, but only that the claims on appeal "read on" something disclosed in the reference, i.e., all limitations of the claims are found in the reference. See Kalman v. Kimberly Clark Corp., 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1083). Moreover, it is not necessary for the applied reference to expressly disclose or describe a particular element or limitation of a rejected claim word for word as in the rejected claim so long as the reference

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inherently discloses that element or limitation. See, for example, Standard Havens Products Inc. v. Gencor Industries Inc., 953 F.2d 1360, 21 USPQ2d 1321 (Fed. Cir. 1991).

2. Claims 1-6, 8-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim (5,707,384).

In figures 1-3c, Kim (5,707,384) discloses a lancet device having a housing ² ~~4~~, a lancet ³ ~~8~~ with a piercing tip, a driving assembly ⁵ ~~6~~, a restrictor 12, as recited in claim 1. The device includes a biasing member/spring 10, as recited in claims 2-3. The device further includes an actuation assembly/button 7, as recited in claims 4-5. The button is secured to the lancet and abutted to the housing, as broadly interpreted of claim 6. The device includes an abutment structure (unlabeled) with a protrusion/shoulder (unlabeled) having a slope, as recited in claims 8-13. The device includes a guide member 9, as recited in claim 14. The guide assembly has at least one guide ridge (unlabeled), as recited in claim 15. The examiner notes that the area between the reference 12 and reference 10 is the ridge location. The device includes a protective cover 14 and is protruded from the housing, as recited in claims 16-17. The above elements meet the limitations of claims 18-25.

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Allowable Subject Matter

3. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record do not show a lancet device with a button that is structured to be temporarily concealed by a housing after a lancet has moved out of a cocked orientation.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lang et al. - see figures 1-13.

Rife - see figures 13-28.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikki Trinh whose telephone number is (703) 308-8238. The examiner can normally be reached Mon-Thurs, 7:30AM - 6:00 PM Eastern Time.

If attempts to reached the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Buiz, can be reached at (703) 308-0871.

General inquiries relating to the status of this application should be directed to the Group receptionist at (703) 308-0858. The fax number is (703) 308-2708.

Vikki Trinh,
Patent Examiner
April 24, 2000


MICHAEL BUIZ
SUPERVISORY PATENT EXAMINER
GROUP 3300

4/24/00